Pacific Bell Telephone Company d/b/a SBC California *and* Communications Workers of America, Local 9509, AFL–CIO. Case 21–CA–36096

February 4, 2005

DECISION AND ORDER

BY CHAIRMAN BATTISTA AND MEMBERS LIEBMAN AND SCHAUMBER

On September 23, 2004, Administrative Law Judge Lana H. Parke issued the attached decision. The Respondent filed exceptions and a supporting brief, and the General Counsel filed an answering brief. The Respondent filed a reply brief.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.[1]

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,[2] and conclusions[3] and to adopt the recommended Order.

[1] Member Liebman did not participate in the decision on the merits.

[2] The Respondent has excepted to some of the judge's credibility findings. The Board's established policy is not to overrule an administrative law judge's credibility resolutions unless the clear preponderance of the relevant evidence convinces us that they are incorrect. *Standard Dry Wall Products*, 91 NLRB 544 (1950), enfd. 188 F.2d 362 (3d Cir. 1951). We have carefully examined the record and find no basis for reversing the judge's findings.

[3] The Respondent has asserted that the Union's request for information should be deferred to the parties' contractual grievance-arbitration procedures. Chairman Battista and Member Schaumber, if not bound by Board precedent, would defer the request. However, in the absence of a three-member Board majority to overrule current Board law, they find that the judge correctly applied the Board's policy of nondeferral in information request cases.

The Respondent defends its refusal to provide the Union with the requested F&T orders, the BOSS notes, and the Miragliotta asset protection report by claiming that they contained confidential information, i.e., customer names, addresses, telephone numbers, and services provided to customers. Even assuming that the Respondent had established a legitimate and substantial confidentiality interest in that information, we find, like the judge, that the Respondent made no offer of accommodation. Further, to the extent relevant, we note that there is no finding that an accommodation would be infeasible. Therefore, the Respondent violated Sec. 8(a)(5) and (1) by failing and refusing to provide the information as requested.

We also reject the Respondent's contention that the judge erred by refusing to order the General Counsel to produce the affidavit of Union Vice President John Young. The Board requires production of any "statement," after a witness called by the General Counsel or a charging party has testified. See 29 CFR § 102.118(b)(1); *Jencks v. U.S.*, 353 U.S. 657 (1957). The Respondent's counsel did not request Young's affidavit until the close of her case. Under these circumstances, the judge properly viewed the request as untimely. See, e.g., *Raymond Engineering*, 286 NLRB 1210, 1216 fn. 7 (1987) (request not made until cross-examination complete); *Walsh-Lumpkin Wholesale Drug Co.*, 129 NLRB 294, 295–296 (1960) (request made after witnesses had been fully cross-examined and excused as witnesses).

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondent, Pacific Bell Telephone Company, d/b/a SBC California, San Diego, California, its officers, agents, successors, and assigns shall take the action set forth in the Order.

Dated, Washington, D.C. February 4, 2005

Robert J. Battista, Chairman

Peter C. Schaumber, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

Robert N. MacKay, Atty., Counsel for the General Counsel.
Karen Haubrich, Atty., Pacific Bell Telephone Company, San Diego, California.
John T. Young, Vice President, Communications Workers of America, Local 9509, AFL–CIO, for the Charging Party, San Diego, California.

DECISION

STATEMENT OF THE CASE

LANA H. PARKE, Administrative Law Judge. This matter was tried in San Diego, California, on August 2, 2004, upon a complaint and notice of hearing (the Complaint) issued May 20, 2004,[1] by the Regional Director for Region 21 of the National Labor Relations Board (the Board) based upon charges filed by the Communications Workers of America, Local 9509, AFL–CIO, (the Union.) The complaint alleges Pacific Bell Telephone Company d/b/a SBC California (Respondent) violated Section 8(a)(1) and (5) of the National Labor Relations Act (the Act). Respondent essentially denied all allegations of unlawful conduct.

Issues

1. Is the following information necessary for and relevant to the Union's performance of its duties as the exclusive collective-bargaining representative of Respondent's employees?

a. Complete copies of all F&T orders allegedly falsified by discharged employees.

b. BOSS notes for each of the F&T orders described in subparagraph (a) above.

c. The asset protection report concerning Supervisor Kelly Miragliotta.

2. Has Respondent, since June 22, failed and refused to recognize and bargain with the Union as the exclusive collective-bargaining representative of the above-described unit employ-

[1] All dates herein are 2003 unless otherwise specified.

ees in violation of Section 8(a)(5) of the Act by refusing to provide the Union with the requested information?

On the entire record, including my observation of the demeanor of witnesses and after considering the briefs filed by the General Counsel and Respondent, I make the following.

FINDINGS OF FACT

I. JURISDICTION

During the 12-month period ending December 31, a representative period, Respondent, a California corporation, with a principal office and place of business located in San Francisco, California, and with branch offices and facilities located throughout the State of California, including San Diego, has been engaged in the business of providing telecommunication services. During the 12-month representative period, in the operation of its business, Respondent annually derived gross revenues in excess of $100,000 and purchased, and received at its California facilities, goods valued in excess of $50,000 directly from points outside the State of California. Respondent admits, and I find, it has at all relevant times been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. REFUSAL TO FURNISH INFORMATION

Respondent and the Union have been parties to a collective-bargaining agreement effective by its terms from February 5, 2001 through April 1, 2004 (the Agreement), covering various employee classifications, as set forth in article I of that agreement (the unit), including CSRs (CSRs).[2] At all times relevant hereto, the Union has been the exclusive collective-bargaining representative of employees in the unit.

At relevant times, Respondent had a sales' incentive program in which CSRs and their supervisors participated based on sales of services by CSRs. Any customer moving from one location to another in the service area, who cancelled service at the former location and requested new services at the new location, dealt with one of Respondent's CSRs. The CSR entered all relevant data through Respondent's computer program for such changes in service. If the customer agreed to accept services above and beyond those the customer had enjoyed at the former location, the CSR received incentive credits for those services. If the customer wanted no additional services at the new location, keeping the same services enjoyed at the former location, the CSR received no incentive credit. If the customer chose to decrease services at the new location, the CSR received negative incentive credit, which diminished his/her incentive credit fund and potential monetary bonus.

The sales' activity surrounding such customer service requests was recorded on two reports: the "From" report and the "To" report, known collectively as the F&T reports. The "From" report noted the services Respondent provided the customer before the move. The "To" report noted the services the customer wished Respondent to provide at the new location. The CSR was to enter his/her personal sales' code on each report, which permitted Respondent to track the sales and make the necessary calculations to determine incentive credits.

After processing an F&T order, the CSR makes written notes of the transaction (i.e., conversation with the customer) through Respondent's computer billing program (BOSS). The BOSS notes contain customer telephone numbers and addresses. Although guidelines exist regarding the appropriate content of BOSS notes, a CSR may record any information thought relevant.

At some point, Respondent conducted an investigation of CSRs' F&T reports (the F&T investigation). Respondent's investigation uncovered evidence that certain CSRs were recording accurate sales' codes only on the "To" reports while recording fictitious sales' codes on the "From" reports (sales' code falsification). CSRs who did so were thereby able to avoid being charged with negative incentive credits. The investigation included interviews of certain CSRs but did not include review of any BOSS notes. Respondent prepared a report showing the inconsistent "T" and "F" sales' codes on certain CSR F&T reports and summarizing employee interviews (investigatory report). Thereafter, in April, Respondent discharged unit employees Brian Bethel, Kerry Henson, Rena Pinder, Bernie Punsalan, Cleo Shivers, and Tom Vu (discharged employees) for alleged misrepresentation, fraud, theft, and code of conduct violations.[3]

Asset protection, Respondent's internal security organ, investigates suspected employee misconduct. The usual procedure is for asset protection investigators to interview witnesses and prepare a summary report of the investigation findings (asset protection reports). Kelly Miragliotta (Ms. Miragliotta) had supervised some of the discharged employees and was, herself, eligible for sales' incentive bonuses based on the sales of supervised CSRs. Asset protection conducted an investigation of Ms. Miragliotta in connection with the F&T investigation. Respondent terminated Ms. Miragliotta at about the same time as the discharged employees for problems related to F&T sales' code falsification.

In May, the Union filed grievances on behalf of the discharged employees. To effectuate processing of the grievances, the Union requested the following information from Respondent relevant to each discharged employee for the following reasons:

> (1) The F&T orders allegedly falsified. The Union sought this information to determine the accuracy of Respondent's investigatory reports and its allegations of misconduct and to ascertain whether exculpatory or mitigating data existed.
>
> (2) The BOSS notes for each of the F&T orders allegedly falsified. The Union sought this information as evidence of what had transpired in the contact between CSR and customer, which might bear on the allegations of misconduct, e.g. whether supervisor directive or approval was involved in entering a sales code.

[2] Where not otherwise noted, the findings herein are based on the pleadings, the stipulations of counsel, and/or unchallenged credible evidence.

[3] Prior to discharge, each discharged employee was shown a copy of the investigatory report. None questioned its accuracy. Each admitted having changed sales' codes.

(3) An Asset Protection report regarding Ms. Miragliotta. The Union sought this information as it believed the report contained a record of investigatory interviews with unit employees, which might bear on Respondent's basis for discipline and possible disparate discipline.

Respondent provided the Union with its investigatory report. The investigatory report did not show services ordered, what was falsified, or the amount of money involved. Respondent declined to furnish the Union with the requested underlying F&T orders or the attendant BOSS notes, asserting that it had neither examined the allegedly falsified F&T orders nor reviewed the BOSS notes before deciding to terminate the discharged employees. Rather, Respondent told the Union, it relied only on its investigatory report.

Respondent also refused to furnish the asset protection report regarding Ms. Miragliotta. Initially Respondent asserted the asset protection report concerned a nonunit supervisor and was irrelevant to the grievances. On May 6, Respondent permitted the Union to read the asset protection report and to offer reasons why it thought the report was relevant. The Union read the report and renewed its request, contending the report was relevant because it contained a record of unit employee interviews, showed denial of a *Weingarten* representative to one employee, and contained admissions of supervisory knowledge and supervisory encouragement of sales' code falsification.[4] Respondent continued to refuse to provide a copy of the report to the Union.

On December 19, the Union filed unfair labor practice charges alleging Respondent unlawfully refused to provide requested information relevant to the processing of discharge grievances.

Respondent's labor relations manager, Karin Felts (Ms. Felts) testified that in her first meeting with the Union over the discharge grievances,[5] the parties discussed the relevancy of the requested information, but after that, "it was not brought up again . . . there was no push to continue the conversation as it was related to the BOSS Notes and the T and F's." In response to the following question, she further testified:

> Q. Did [union representative, Ed Venegas] ever tell you whether he thought he had sufficient information to go—make a decision, as to whether to go forward to arbitration?
>
> A. I asked him, on several occasions, during the course of several months, whether he had enough information and his reply was, yes, you have given me everything.

Ms. Felts wrote Mr. Venegas a letter dated June 4, 2001, which stated, in pertinent part:

> You Ed have indicated that you need more information, but have been unable to explain what additional information you need in relationship to the grievances. In fact you have indicated to me that I have provided you everything you needed on more than one occasion . . . I am willing to meet again; however, you will need to articulate your position, issues, and/or the additional information you require.

Mr. Venegas did not respond to the letter. At the hearing, he denied ever telling Ms. Felts that the Union did not need the requested information. I accept Mr. Venegas' testimony. I do not find that Ms. Felts' testimony clearly reflects that her exchanges with Mr. Venegas related to the requested information. Moreover, the unfair labor practice charges remained in effect, which would surely have excited comment by Respondent if the Union, in fact, no longer contended it needed the information. Since, by June 4, 2004, the date of Ms. Felts' letter to Mr. Venegas, it was abundantly clear what requested information was in issue, I can only infer that the "additional information" referred to in the letter related to something other than F&T reports, BOSS notes, or the asset protection report.

III. DISCUSSION

A. Deferral to Arbitration

Respondent contends the issues herein should be deferred to the parties' grievance procedures since the collective-bargaining agreement provides for accelerated procedures in such disputes. Section 7.06 of the agreement states that "disputes over the relevancy of information" will move through three levels of union/employer consideration in 7-day increments. Thereafter, if the dispute is not resolved, "the union may elect to . . . [a]rbitrate the issue under the provision of Section 7.10." Section 7.10 sets forth the arbitration procedures for all disputes. Thus, the procedures for handling relevancy-of-information disputes are accelerated only through the pre-arbitration stages. Thereafter, by the terms of the agreement, the same arbitration provisions that apply to all grievances govern information disputes.

The Board has consistently held to "a longstanding policy of nondeferral to arbitration in information request cases [citations omitted]." *Shaw's Supermarkets, Inc.*, 339 NLRB 871 (2003). There is nothing in the instant facts to suggest a basis for ignoring the Board's policy. Accordingly, I reject Respondent's deferral argument.

B. Refusal to Furnish Information

Under Section 8(a)(5) and (8(d) of the Act, an employer must furnish a union with requested relevant information to enable it to represent employees effectively in administering and policing an existing collective-bargaining agreement. *NLRB v. Acme Industrial Co.*, 385 U.S. 432, 435–436 (1967), *A-Plus Roofing, Inc.*, 295 NLRB 967, 970 (1989), enfd. 39 F.3d 1410 (9th Cir. 1994). Information that relates directly to the terms and conditions of employment of the employees represented by a union is presumptively relevant as is information necessary for processing grievances under a collective-bargaining agreement, including that needed to decide whether to proceed with a grievance or arbitration. *NLRB v. Acme Industrial Co.*, 385 U.S. at 438–439; *Postal Service*, 332 NLRB 635 (2000); *Fleming Cos.*, 332 NLRB 1086 (2000). Specifically, an employer must provide information requested by the union for the purposes of processing grievances. *Postal*

[4] One issue addressed by the Asset Protection report was whether Ms. Marigliotta instructed or trained employees to change sales' codes.

[5] Ms. Felts became involved at the last step of the grievance procedure before arbitration. That stage apparently occurred after the unfair labor practice charges herein were filed.

Service, 337 NLRB 820, 822 (2002). The employer has the burden of proving lack of relevance. *Contract Carriers Corp.*, 339 NLRB 851, 858 (2003). As to presumptively relevant requests for information, the Union need not make any specific showing of relevance unless the employer rebuts the presumption of relevance. *Mathews Readymix*, 324 NLRB 1005, 1007 (1997), enfd. in relevant part 165 F.3d 74 (D.C. Cir. 1999); *Ohio Power Co.*, 216 NLRB 987, 991 (1975), enfd. 531 F.2d 1381 (6th Cir. 1976). The Board uses a broad discovery-like standard to measure relevance, under which "even potential or probable relevance is sufficient to give rise to an employer's obligation to provide information [citations omitted]." *Postal Service*, 332 NLRB at 636. The Board "does not pass on the merits of the grievance underlying a request . . . and the union is not required to demonstrate that the information sought is accurate, nonhearsay, or even ultimately reliable [citation omitted]." *Postal Service*, 337 NLRB at 822

The Union sought the allegedly falsified F&T orders and concomitant BOSS notes as potential sources of information relating to the discharges and as necessary to its processing of employees' discharge grievances. The information is, therefore, presumptively relevant. As an apparent attempt to rebut the relevance presumption, Respondent asserts that it did not review BOSS notes or use the F&T orders in "any part of its investigation." As to the BOSS notes, there is no evidence Respondent utilized them in deciding misconduct had occurred. As to the F&T orders, Respondent relied on a summary report generated by the finance department showing mismatched F&T order sales' codes. In the absence of contrary evidence, I can only assume the finance department based its report on data gleaned from the F&T orders. Ultimately, therefore, Respondent's investigation must have been based on information recorded on the F&T orders, which make them primary sources in Respondent's fact finding.

Although Respondent furnished the Union with a report of what the F&T orders revealed, the Union is not required to rely on the representations of Respondent; the Union is entitled to check the accuracy of the fact finding and to determine if other relevant information appears on the orders that may have been omitted from the report. As to the BOSS notes, even though Respondent did not review them during the investigation, they fit within the Board's broad discovery-like standard as potentially relevant to misconduct inquiries focused on CSR/customer transactions. The fact that the Union cannot show that any BOSS note information would be "accurate, nonhearsay, or even ultimately reliable" is unimportant. *Postal Service*, 337 NLRB at 822.

Respondent also argues that both the F&T orders and the BOSS notes contain proprietary and/or confidential customer information, i.e. customer names, addresses, telephone numbers, and services, to which the Union is not entitled. The personal customer information is clearly confidential, and in such situations, the Board balances a union's need for the information against an employer's "legitimate and substantial" confidentiality interests in determining the duty to supply the information. *Allen Storage & Moving Co.*, 342 NLRB No. 44 (2004) (where the employer had legitimate and substantial (where the employer had legitimate and substantial confidentiality interests); *Good Life Beverage Co.*, 312 NLRB 1060, 1061 (1993). The party claiming confidentiality has the burden of proving that such interests are so significant as to outweigh the union's need for the information, as well as a duty to seek an accommodation. *GTE California, Inc.*, 324 NLRB 424, 427 (1997). Further, the employer must bargain about accommodating the union's information needs. *Allen Storage & Moving Co.*, supra; *Good Life Beverage Co.*, supra; see also *Minnesota Mining & Mfg. Co.*, 261 NLRB 27 (1982).

Here, Respondent has not shown that its proprietary and/or confidentiality concerns are significant enough to outweigh the Union's need for the information. There is no evidence Respondent contemplated or even suspected the Union would, or could, misuse the customer information contained in the F&T reports and/or BOSS notes. (See, e.g., *Allen Storage & Moving Co.*, supra, where the employer was justifiably concerned that requested information might be used in customer contact and/or picketing.) There is no evidence Respondent approached the Union with a request to bargain about limiting the information provided in order to protect the alleged confidentiality; e.g., Respondent sought no accommodation such as redaction of confidential information or union assurance it would not exploit confidential information. See *Postal Service*, 332 NLRB at 638. Accordingly, Respondent has provided no persuasive rationale for declining to provide the information, and I find Respondent breached its duty of good faith bargaining when it refused to provide the Union with the F&T reports and related BOSS notes.

The Union also requested Respondent to provide the asset protection report. That report concerned alleged unethical conduct of Ms. Miragliotta, a supervisor. When a union seeks information concerning persons outside the bargaining unit, "the union bears the burden of establishing the relevance of the requested information [citations omitted]." *Postal Service*, 332 NLRB at 636. A union satisfies its burden when it demonstrates a reasonable belief supported by objective evidence for requesting the information. *United States Testing Co.*, 324 NLRB 854, 859 (1997).[6] The asset protection report focused on what instructions supervisors, at least Ms. Miragliotta, had given employees about sales' code recordation and contained, in part, summaries of investigatory interviews with unit employees on that subject.[7] The Union believed the facts adduced in the investigation might well bear on the validity of and possible disparity in discipline meted to the discharged employees. In these circumstances, the Union has met its burden of establishing the relevance of the report.

In arguing that the Union is not entitled to the asset protection report, Respondent does not contend the report is unrelated to the issues. Rather, Respondent asserts that no grievant was interviewed for the report, that the Union already had informa-

[6] Rev. denied, enf. granted 160 F.3d 14 (D.C. Cir. 1998), rehearing en banc denied (1999).

[7] The Union is entitled to summaries of witness statements, Id., as opposed to the statements themselves. See *Fleming Cos.*, 332 NLRB 1086, 1087 (2000) (no duty to furnish witness statements).

tion regarding the interviews in the form of notes taken by a union steward who was present, that it afforded the Union an opportunity to read the asset protection report, that the report is confidential, and that the reports contains no exculpatory information that would help the discharged employees.

As to Respondent's first argument, it is not necessary that the report information came from interviews of employees other than the grievants; the interviewed employees were unit members, and it is only necessary the information summarized from their interviews bear on grievance issues. Respondent also contends that union-steward notes and the Union's own review of the report should suffice the Union. In so arguing, Respondent fails to give due consequence to the Union's right not only to see but unrestrictedly to review materials Respondent relied upon in issuing discipline and to determine for itself whether the information supports or weakens its position.[8] Respondent's further argument that the report would not be helpful to the Union is likewise unavailing. In the Board's view, the Union is entitled to negative as well as positive information that would assist it in deciding whether to proceed with a grievance or arbitration. *Postal Service*, 332 NLRB at 635; *Fleming Cos.*, supra. As for Respondent's confidentiality argument, it is weakened by the fact that a union steward was present in the interviews and by its permitting the Union to read over the asset protection report. Having failed to assert confidentiality concerns at those stages, Respondent is inconsistent and unpersuasive in asserting them now.[9]

Finally, as with the F&T reports and the BOSS notes, there is no evidence Respondent requested bargaining about measures to protect the confidentiality of the asset protection report. Accordingly, I find Respondent breached its duty of good faith bargaining when it refused to provide the Union with the asset protection report.

CONCLUSIONS OF LAW

1. Respondent is an employer engaged in commerce and in a business affecting commerce within the meaning of Section 2(6) and (7) of the Act.

2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

3. Respondent violated Section 8(a)(1) and (5) of the Act by failing to provide the Union with the following relevant information:

(a) The F&T orders allegedly falsified by discharged employees,

(b) The BOSS notes for each of the F&T orders allegedly falsified,

(c) The asset protection report regarding Ms. Miragliotta.

4. Respondent's unlawful conduct described in paragraph 3 above affects commerce within the meaning of Section 2(6) and (7) of the Act.

REMEDY

Having found that Respondent has engaged in certain unfair labor practices, it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[10]

ORDER

Respondent, Pacific Bell Telephone Company d/b/a SBC California, San Diego, California, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to provide the Union with requested information relevant and necessary to its responsibilities as exclusive collective-bargaining representative of a unit of Respondent's employees: the F&T orders allegedly falsified by discharged employees, the BOSS notes for each of the F&T orders allegedly falsified, the asset protection report regarding Ms. Miragliotta.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days from the date of this order, provide the Union with the information, necessary and relevant to its status as exclusive collective-bargaining representative, which the Union requested in May 2003.

(b) Within 14 days after service by the Region, post at its facility in San Diego, California, copies of the attached notice marked "Appendix."[11] Copies of the notice, on forms provided by the Regional Director for Region 21, after being signed by Respondent's authorized representative, shall be posted by Respondent and maintained for 60 consecutive days in conspicuous places including all places where Notices to employees are customarily posted. Reasonable steps shall be taken by Respondent to ensure that the Notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, Respondent has gone out of business or closed the facility involved in these proceedings,

[8] The steward notes may not be thorough or reflect the information Respondent relied on. Moreover, an employer may not refuse to furnish relevant information to a union on the ground that the union has an alternative source or method of obtaining such information. *Orthodox Jewish Home for the Aged*, 314 NLRB 1006, 1008 (1994).

[9] Respondent asserts that by permitting the Union to see, but not to take, the report, it has properly balanced the privacy interests of third parties with the Union's information needs. It is true the Board balances a union's need for information against "legitimate and substantial confidentiality interests" of the employer. *Detroit Newspaper Agency*, 317 NLRB 1071, 1074 (1995). Here, however, Respondent has no legitimate and substantial confidentiality interests, and no basis for balancing exists.

[10] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

[11] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

Respondent shall duplicate and mail, at its own expense, a copy of the Notice to all current employees and former employees employed by Respondent at any time since May 2003.

(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps Respondent has taken to comply.

Dated, at San Francisco, California, September 23, 2004

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT do anything that interferes with these rights. More particularly,

WE WILL NOT refuse to provide your union, Communications Workers of America, Local 9509, AFL–CIO, with requested information it needs to represent and to bargain for you, including F&T orders allegedly falsified by employees, BOSS notes for each F&T order, and an asset protection report about a supervisor's involvement in the falsification of F&T orders.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL provide your union with the requested information it needs to represent and to bargain for you.

PACIFIC BELL TELEPHONE COMPANY
D/B/A SBC CALIFORNIA